the act. *Boston Steel & Iron Co.* v. *Steuer*, 183 Mass. 140, 66 N. E. 646; *Brown* v. *Rowan*, 91 N. Y. Misc. 220, 154 N. Y. Supp. 1098. Strangely, however, the New York court has held that transference by a thief is not such a "negotiation" as will constitute a payee a holder in due course. *Empire Trust Co.* v. *Manhattan Co.*, 97 Misc. 694, 162 N. Y. Supp. 629. See 30 HARV. L. REV. 515. The question arises for the first time in Pennsylvania, and the court also repudiates the Iowa decision. The fact that the defendant was an irregular indorser and not the maker, as was true in all the preceding cases, can create no basis for any substantial distinction. See also *Thorp* v. *White*, 188 Mass. 333, 74 N. E. 592; *Liberty Trust Co.* v. *Tilton*, 217 Mass. 462, 105 N. E. 605.

CARRIERS — DUTY TO TRANSPORT — LIABILITY OF CARRIER FOR ACT OF FOREIGN AGENT IN ACCORDANCE WITH FOREIGN LAW. — The defendant, a common carrier running freight steamers between the United States and Shanghai, China, employed as agent in Shanghai a British firm, which was, by English law, forbidden to deal with parties on the British "black list." In 1916 the plaintiff, an American citizen, agent for German subjects and therefore on the "black list," tendered goods for carriage to the defendant's agent. In accordance with his legal duty, the latter refused to accept them for transportation. The plaintiff brought an action to recover for this refusal. *Held*, that the defendant is liable. *Swayne* v. *Hoyt*, 255 Fed. 71.

One of the duties of a common carrier is to receive for carriage, subject to reasonable limitations, any goods offered it, the nature of which corresponds to those which it professes to carry. *Ill. Cent. R. R. Co.* v. *Frankenberg*, 54 Ill. 88. Accordingly, the refusal to serve the plaintiff, unless justified, rendered the defendant liable. A common carrier must serve without discrimination every member of the class it professes to serve. *Pittsburg, etc. Ry. Co.* v. *Morton*, 61 Ind. 539; *Brown* v. *Memphis & C. Ry. Co.*, 5 Fed. 499. See WYMAN, PUBLIC SERVICE CORPORATIONS, § 344. Refusal to serve must be based on the possibility of performing the service, not on the character of the shipper. See WYMAN, PUBLIC SERVICE CORPORATIONS, § 550. The mere refusal of a carrier's employees to serve does not relieve the carrier of liability. *Seasongood, etc. Co.* v. *Tennessee, etc. Transp. Co.*, 21 Ky. L. Rep. 1142, 54 S. W. 193. On the other hand, subserviency to governmental authority is a defense. *Palmer* v. *Lorrillard*, 16 Johns. 348; *Phelps* v. *Ill. Cent. R. R. Co.*, 94 Ill. 548. In the principal case, however, the law bound the agent alone and not the defendant principal. It is submitted that the defendant's duty to render reasonable service to the public required the maintenance of a competent agent. It was reasonable to expect the situation which arose, and the defendant should have provided for it. *St. Louis, etc. Ry. Co.* v. *State*, 85 Ark. 311, 107 S. W. 1180. Hence the incompetency of the agent was no excuse.

CONSTITUTIONAL LAW — DUE PROCESS — POLICE POWER — LIMITATION OF FEES OF EMPLOYMENT AGENCIES. — An ordinance limited fees of employment agents to five per cent of the first month's wages and board. An employment agent charged a larger fee for furnishing a clerical position, and was convicted of violating the ordinance. *Held*, that the conviction be reversed. *Wilson* v. *City & County of Denver*, 178 Pac. 17 (Colo.).

For the protection of the public welfare private employment agencies are subject to regulation under the police power. *Brazee* v. *Michigan*, 183 Mich. 259, 149 N. W. 1053; *Brazee* v. *Michigan*, 241 U. S. 340; *Price* v. *People*, 193 Ill. 114, 61 N. E. 844. Legislation under this power will be overthrown only when utterly unreasonable. *Rast* v. *Denman*, 240 U. S. 342, 357. See 32 HARV. L. REV. 173. A prohibition of fees has been held unreasonable. *Adams* v. *Tanner*, 244 U. S. 590. See 31 HARV. L. REV. 490. And the same has been

held in regard to a limited maximum fee, because it regulated a harmless business. *Ex parte Dickey*, 144 Cal. 234, 77 Pac. 924. *Cf City of Spokane* v. *Macho*, 51 Wash. 322, 98 Pac. 755. The principal case, however, recognizes the incidental evil of the business, exorbitant rates charged to the necessitous, but holds that laborers need protection while clerical and technical applicants do not. Accordingly the court, in order to render the ordinance constitutional, construes "wages" to include only the former. *Grenada County* v. *Brogden*, 112 U. S. 261; *Chesebrough* v. *City & County of San Francisco*, 153 Cal. 559, 96 Pac. 288. The term "wages" has received various constructions. See *Bovard* v. *K. C., Ft. S. & M. Ry. Co.*, 83 Mo. App. 498, 501; *In re Stryker*, 158 N. Y. 526, 528, 53 N. E. 525; *South & North Alabama Railway* v. *Falkner*, 49 Ala. 115, 118. But each case should depend on its own subject matter and object. *Gordon* v. *Jennings*, 9 Q. B. D. 45, 46. And it is submitted that the ordinance in the principal case applies to all and is constitutional. It is, and was intended as, a regulation similar to usury laws to protect the necessitous, regardless of their employment. It seems that "wages and board" was used merely to afford a basis for computing the fee chargeable. See, dissenting opinions, *Ex parte Dickey*, 144 Cal. 234, 242, 77 Pac. 324, 327; *Adams* v. *Tanner*, 244 U. S. 590, 597.

CONSTITUTIONAL LAW — POWERS OF LEGISLATURE: TAXATION — POLICE POWER — ENCROACHMENT THEREON. — Section 2 of the Harrison Anti-Narcotic Act provides certain regulations and restrictions governing the sale, dispensing and distribution of opium and its derivatives. The Circuit Court of Appeals held the provisions unconstitutional as an invasion of the police power reserved to the states. On error to the Supreme Court, *held*, that the provisions were valid. *United States* v. *Doremus*, U. S. Sup. Ct., Oct. Term, 1918, No. 367.

For a discussion of this case, see NOTES, page 846.

CONTEMPT OF COURT — CONSTRUCTIVE CONTEMPT — PUBLIC ASSAULT ON ALLEGED INFORMER. — The defendant, in violation of an injunction, removed liquor from his saloon. Pending an application against him to punish for contempt, the defendant publicly but outside the presence of the court assaulted and battered a person supposed by him to have given the information as to removal of the liquor. In fact, the defendant was mistaken in the identity of his victim. *Held*, that the defendant is guilty of contempt of court. *In re Hand*, 105 Atl. 594 (N. J.).

In general, any conduct which obstructs the due administration of justice constitutes contempt of court. See *Adams* v. *Gardner*, 176 Ky. 252, 257, 195 S. W. 412, 414; *Ex parte Clark*, 208 Mo. 121, 145, 106 S. W. 990, 996; OSWALD, CONTEMPT OF COURT, 3 ed., 6. Thus it is contempt to procure one already subpoenaed as a witness to absent himself from the trial. *Commonwealth* v. *Reynolds*, 80 Mass. 87. See *State* v. *Moore*, 146 N. C. 653, 61 S. E. 463; 2 BISHOP, CRIMINAL LAW, 8 ed., § 258. Nor would the fact that the subpoena had not yet been served make such acts any less an obstruction of justice. *Rex* v. *Carroll* (1913), Vict. L. R. 380. See 2 WHARTON, CRIMINAL LAW, 7 ed., § 2287; 27 HARV. L. REV. 166. Even the use of threatening language toward an intended witness for the purpose of intimidating him in giving his evidence is a contempt of court. *Shaw* v. *Shaw*, 8 Jur. (N. S.) 141. See *Rex* v. *Gray*, 23 N. Z. L. R. 52 C. A. *A fortiori* an assault and battery upon a witness to influence his testimony in a future trial constitutes a contempt. *Brannan* v. *Commonwealth*, 162 Ky. 350, 172 S. W. 703. See 32 HARV. L. REV. 174. The principal case, in holding as a contempt an act of this nature done outside the presence of the court, the battery being committed upon one who is not a witness, goes beyond the prevailing authorities. The policy of the law, it appears, is to confine the doctrine of constructive contempt to cases falling within